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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,069	10/06/2003	Tuoc Tan Nguyen	816020-100050-US	9948

34026 7590 10/13/2005

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LOS ANGELES, CA 90071

EXAMINER

MILLER, CHERYL L

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/680,069	NGUYEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cheryl Miller	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/4/05</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 5, and 6 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 are rejected under U.S.C. 102(e) as being anticipated by Pavcnik et al. (US 2005/0143807 A1). From one point of view, Pavcnik discloses a valve assembly comprising a valve (45) having a scalloped inflow annulus, an outflow annulus, and a plurality of leaflets (25; plurality of leaflets shown in fig.20-27, 35-40, and 42-50); and a spring aided anchoring structure (frame 11) comprising a plurality of members (sides 13) and a plurality of springs (coil 14) therebetween, wherein the members (13) have a shape with peaks and valleys (12), at least one anchoring section adjacent a valley of the members, the section formed by an inwardly facing semicircular indentation (barb 16, an is disclosed to be a bend or hook, [0063], and is an extension of a member 13) of a member. Pavcnik discloses the valve (45) to be positioned internal of the anchoring structure (11).

From another point of view, Pavcnik discloses a valve assembly comprising a valve (45) having a scalloped inflow annulus, an outflow annulus, and a plurality of leaflets (fig.20-27, 35-40, 42-50); and a spring aided anchoring structure (frame 11) comprising a plurality of members (sides 13) and a plurality of springs (entire frame 11 is a spring, including the bends 12, since it is made of a spring material) therebetween wherein the members (13) have a shape with peaks and valleys (ends 12 of sides 13), at least one anchoring section adjacent a valley of the members, the section formed by an inwardly facing semicircular indentation (42, see fig.10 or 11) of a member.

Claims 1-2 are rejected under U.S.C. 102(e) as being anticipated by Gabbay (US 2003/0040792 A1). Gabbay discloses a valve assembly (see figs.15-18) comprising a valve (478, 542) having a scalloped inflow annulus (see fig.15, 17, 18), an outflow annulus, and a plurality of leaflets (480); and a spring aided anchoring structure (stent 500) comprising a plurality of members (512), and a plurality of springs (506, 508, 510) therebetween wherein the members have a shape with peaks and valleys (ends of 512), at least one anchoring section adjacent a valley of the members, the section formed by an inwardly facing semicircular indentation (514) of a member. Gabbay discloses the valve (478, 542) to be positioned internal of the anchoring structure (500).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3738

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under U.S.C. 103(a) as being unpatentable over Dobben (US 4,994,077). Dobben discloses a valve assembly (fig.7a, 7b, 8) comprising a valve (88) having a scalloped inflow annulus, and an outflow annulus, and a spring aided anchoring structure (stent 70) comprising a plurality of members (axial struts) and a plurality of springs (bends 72, 74, 76) therebetween, wherein the members have a shape with peaks and valleys (end most points of struts), at least one anchoring section adjacent a valley of the members, the section formed by an inwardly facing semicircular indentation (hooks 84, 86, are extensions of a member/strut) of a member. Dobben discloses the valve assembly as claimed however discloses only one leaflet instead of a plurality of leaflets. It would have been obvious to one having ordinary skill in the art at the time the invention was made to a plurality of leaflets instead of one, since it would simply be a mere duplication of parts, two, and three leaflets systems well known in the valve art (see for example Shaolian et al. US 6,299,637, which shows use of either one or two leaflets, similar to the leaflet shown by Dobben). *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

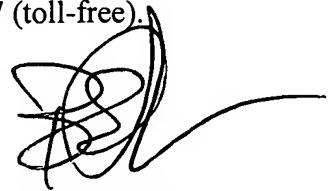
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cheryl Miller

  
BRUCE SNOW  
PRIMARY EXAMINER